

House Engrossed Senate Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 222

SENATE BILL 1367

AN ACT

AMENDING SECTIONS 41-1517, 42-2003, 42-5066, 43-1075 AND 43-1163, ARIZONA
REVISED STATUTES; RELATING TO MOTION PICTURE PRODUCTION TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-1517, Arizona Revised Statutes, is amended to
3 read:

4 41-1517. Motion picture production tax incentives; duties;
5 definitions

6 A. From and after December 31, 2005 through December 31, 2010, the
7 department of commerce shall qualify motion picture production companies that
8 produce one or more motion pictures in this state for motion picture
9 production tax incentives, subject to the following requirements and
10 conditions:

11 1. A motion picture production company must incur production costs in
12 this state of at least two hundred fifty thousand dollars IN PRODUCING ONE OR
13 MORE MOTION PICTURES during each twelve month period for which it is
14 qualified for the tax incentives.

15 2. For the purpose of this section, production costs are limited to
16 and subject to the following conditions:

17 (a) Salaries and other compensation for talent, management and labor
18 paid to residents of this state, as defined by section 43-104.

19 (b) A story and scenario to be used for a motion picture.

20 (c) Set construction and operations, wardrobe, props, accessories and
21 related services in this state. Expenses paid for construction contracts are
22 limited to contractors who are licensed under title 32, chapter 10.

23 (d) Photography, sound synchronization, lighting and related costs
24 incurred in this state.

25 (e) Editing and related services performed in this state.

26 (f) Rental of facilities and equipment in this state.

27 (g) Catered food, drink and condiment purchased in this state.

28 (h) Other direct in-state costs of producing the motion picture,
29 pursuant to rules adopted by the department of revenue that follow generally
30 accepted accounting standards for the motion picture industry.

31 (i) Payments for penalties and fines do not qualify as production
32 costs.

33 3. A motion picture production company OR ITS AUTHORIZED PAYROLL
34 SERVICE COMPANY must employ residents of this state in its production
35 activities as follows:

36 (a) In 2006, at least twenty-five per cent of full-time employees
37 working in this state must be residents of this state.

38 (b) In 2007, at least thirty-five per cent of full-time employees
39 working in this state must be residents of this state.

40 (c) In 2008 and every subsequent taxable year thereafter, at least
41 fifty per cent of full-time employees working in this state must be residents
42 of this state.

43 4. A motion picture production company must submit a completed
44 application pursuant to subsection B or ~~G~~ I of this section. An application
45 is complete on receipt of all requested information.

1 5. A motion picture production company must include in the credits for
2 each motion picture, other than a commercial advertisement, an
3 acknowledgement that the production was filmed in ~~Arizona~~ THIS STATE.

4 B. A motion picture production company initially applying for
5 qualification under this section must report the following to the department
6 of commerce on a form and in a manner prescribed by the department, with the
7 cooperation of the department of revenue:

8 1. The name, address, telephone number and web site of the motion
9 picture production company.

10 2. The name and address of an individual who will maintain records of
11 expenditures in this state.

12 3. The projected first preproduction date and last production date in
13 this state.

14 4. The production office address and office telephone number in this
15 state.

16 5. The estimated total budget of the production.

17 6. The estimated total expenditures in this state.

18 7. The estimated total percentage of the production taking place in
19 this state.

20 8. The estimated level of employment of residents of this state in the
21 cast and crew.

22 9. A script, including a synopsis, the proposed director and a
23 preliminary list of the cast and producer.

24 10. A signed affirmation from the applicant that:

25 (a) The motion picture production company agrees to furnish records of
26 expenditures in this state to the department of revenue on request.

27 (b) Any items purchased with a certification issued under section
28 42-5009, subsection H are intended for use by the applicant directly in
29 motion picture production.

30 C. The department of commerce shall review all applications within
31 thirty days after submission pursuant to subsection B or G- I of this section
32 to determine whether the motion picture production company satisfies all of
33 the criteria provided in subsection A of this section and shall establish the
34 process by which the department qualifies and preapproves a company for
35 motion picture production tax incentives. This process shall preapprove a
36 company for motion picture production tax incentives based on priority
37 placement established by the date that such motion picture production company
38 filed its initial application for qualification with the department.

39 D. IF A COMPANY FAILS TO BEGIN PRODUCTION WITHIN FOUR MONTHS AFTER THE
40 DEPARTMENT PREAPPROVES THE COMPANY OR FAILS TO PROVIDE NOTICE PURSUANT TO
41 THIS SUBSECTION, THE PREAPPROVAL LAPSES, THE APPLICATION IS VOID AND THE
42 AMOUNT OF THE PREAPPROVED INCENTIVES DOES NOT APPLY TO THE DOLLAR LIMIT
43 PRESCRIBED BY SUBSECTION E OF THIS SECTION FOR THAT YEAR. THE DEPARTMENT OF
44 COMMERCE MAY CONDUCT A SITE VISIT TO VERIFY THAT PRODUCTION HAS BEGUN.
45 WITHIN FOUR MONTHS AFTER THE DEPARTMENT PREAPPROVES THE COMPANY'S INITIAL

1 APPLICATION, THE COMPANY MUST SUBMIT NOTICE TO THE DEPARTMENT OF COMMERCE
2 THAT PRODUCTION HAS BEGUN AND PROVIDE AT LEAST ONE OF THE FOLLOWING:

3 1. A COPY OF A CONTRACT, LOAN OUT AGREEMENT OR DEAL MEMO WITH A
4 CAMERAMAN AND CREW.

5 2. A COPY OF THE CREW CALL SHEET FOR THE FIRST DAY OF PRODUCTION.

6 3. EVIDENCE THAT RESIDENTS OF THIS STATE HAVE BEEN PAID A TOTAL OF AT
7 LEAST FIVE THOUSAND DOLLARS FOR WORK ON THE PREAPPROVED MOTION PICTURE.

8 4. A COPY OF A CONTRACT OR AGREEMENT DIRECTLY ATTRIBUTABLE TO THE
9 PREAPPROVED MOTION PICTURE.

10 ~~D.~~ E. The department shall not preapprove income tax credits
11 exceeding a total of:

12 1. Thirty million dollars in 2006.

13 2. Forty million dollars in 2007.

14 3. Fifty million dollars in 2008.

15 4. Sixty million dollars in 2009.

16 5. From and after December 31, 2009, seventy million dollars in a
17 single year.

18 6. Five million dollars for an individual motion picture APPLICATION.

19 F. AFTER OCTOBER 31 OF EACH YEAR, IF THE DEPARTMENT HAS PREAPPROVED
20 THE MAXIMUM CALENDAR YEAR TAX CREDIT AMOUNT PURSUANT TO SUBSECTION E OF THIS
21 SECTION, THE DEPARTMENT MAY ACCEPT INITIAL APPLICATIONS FOR THE NEXT CALENDAR
22 YEAR. THE PREAPPROVAL OF ANY APPLICATION PURSUANT TO THIS SUBSECTION SHALL
23 NOT BE EFFECTIVE PRIOR TO THE FIRST BUSINESS DAY OF THE FOLLOWING CALENDAR
24 YEAR.

25 ~~E.~~ G. The department of commerce shall deny an application submitted
26 pursuant to subsection B or ~~G.~~ I of this section if it determines that:

27 1. The motion picture production company does not meet all of the
28 established criteria provided in subsection A of this section.

29 2. The production would constitute an obscene motion picture film or
30 obscene pictorial publication under title 12, chapter 7, article 1.1.

31 3. The production depicts sexual activity as defined in title 13,
32 chapter 35.

33 4. The production would constitute sexual exploitation of a minor or
34 commercial sexual exploitation of a minor under title 13, chapter 35.1.

35 ~~F.~~ H. On a determination by the department of commerce that a motion
36 picture production company qualifies for motion picture production tax
37 incentives, the department shall issue the company a written letter of
38 qualification and transmit a copy of the letter to the department of
39 revenue. A letter of qualification is effective for twelve consecutive
40 months as stated in the letter.

41 ~~G.~~ I. A motion picture production company that applies for
42 requalification must continue to meet all of the eligibility criteria
43 provided under subsection A of this section and must provide the department
44 of commerce with updated information on the location, ownership and
45 operations of the business. For purposes of efficiency and reducing

1 duplicative or redundant reporting duties, the department may establish a
2 streamlined process for requalification.

3 ~~H.~~ J. Upon completion of the motion picture production, a motion
4 picture production company that qualifies for the motion picture tax
5 incentives shall certify to the department the total amount of eligible
6 production costs associated with the project incurred from and after December
7 31, 2005. From and after June 30, 2006, the department shall provide
8 approval to a motion picture production company that it has met the
9 eligibility requirements of this section and shall notify the department of
10 revenue that a motion picture production company may claim the tax credits
11 pursuant to sections 43-1075 and 43-1163. IF THE ELIGIBLE PRODUCTION COSTS
12 ACTUALLY INCURRED ARE LESS THAN THE AMOUNT PREAPPROVED FOR INCOME TAX
13 CREDITS, THE PREAPPROVED AMOUNT NOT INCURRED LAPSES AND DOES NOT APPLY TO THE
14 DOLLAR LIMIT PRESCRIBED BY SUBSECTION E OF THIS SECTION FOR THAT YEAR.

15 ~~I.~~ K. The department of commerce, with the cooperation of the
16 department of revenue, shall adopt rules and publish and prescribe forms and
17 procedures as necessary to effectuate the purposes of this section.

18 ~~J.~~ L. Any information gathered from motion picture production
19 companies for the purposes of this section shall be considered confidential
20 taxpayer information and shall be disclosed only as provided in section
21 42-2003, subsection B, paragraph 11.

22 ~~K.~~ M. The department of commerce shall:

23 1. Keep annual records of the information provided on applications for
24 motion picture production tax incentives. These records shall reflect a
25 percentage comparison of the annual amount of monies exempted or credited to
26 qualifying motion picture production companies to the estimated amount of
27 monies spent on in-state production costs by motion picture production
28 companies.

29 2. Maintain annual data on growth in Arizona-based motion picture
30 industry companies and motion picture industry employment and wages.

31 3. Not later than December 1 of each year, prepare and publish a
32 report summarizing the information collected pursuant to this subsection.
33 The department shall make copies of the annual report available to the public
34 on request.

35 ~~L.~~ N. For the purposes of this section:

36 1. "Motion picture" means a single medium or multimedia program,
37 including a commercial advertising message, that:

38 (a) Is created by production activities conducted in whole or in part
39 in this state.

40 (b) Can be viewed or reproduced.

41 (c) Is intended for commercial distribution or licensing in the
42 delivery medium used.

43 2. "Motion picture production company" means any person primarily
44 engaged in the business of producing motion pictures and that has a physical
45 business office and bank account in this state.

1 3. "Motion picture production tax incentives" means the tax deductions
2 for transaction privilege and use taxes listed in section 42-5009, subsection
3 H and the credit against income taxes provided under section 43-1075 or
4 43-1163.

5 Sec. 2. Section 42-2003, Arizona Revised Statutes, is amended to read:
6 42-2003. Authorized disclosure of confidential information

7 A. Confidential information relating to:

8 1. A taxpayer may be disclosed to the taxpayer, its successor in
9 interest or a designee of the taxpayer who is authorized in writing by the
10 taxpayer. A principal corporate officer of a parent corporation may execute
11 a written authorization for a controlled subsidiary.

12 2. A corporate taxpayer may be disclosed to any principal officer, any
13 person designated by a principal officer or any person designated in a
14 resolution by the corporate board of directors or other similar governing
15 body.

16 3. A partnership may be disclosed to any partner of the partnership.
17 This exception does not include disclosure of confidential information of a
18 particular partner unless otherwise authorized.

19 4. An estate may be disclosed to the personal representative of the
20 estate and to any heir, next of kin or beneficiary under the will of the
21 decedent if the department finds that the heir, next of kin or beneficiary
22 has a material interest which will be affected by the confidential
23 information.

24 5. A trust may be disclosed to the trustee or trustees, jointly or
25 separately, and to the grantor or any beneficiary of the trust if the
26 department finds that the grantor or beneficiary has a material interest
27 which will be affected by the confidential information.

28 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
29 to confidentiality either in writing or on the record in any administrative
30 or judicial proceeding.

31 7. The name and taxpayer identification numbers of persons issued
32 direct payment permits may be publicly disclosed.

33 B. Confidential information may be disclosed to:

34 1. Any employee of the department whose official duties involve tax
35 administration.

36 2. The office of the attorney general solely for its use in
37 preparation for, or in an investigation which may result in, any proceeding
38 involving tax administration before the department or any other agency or
39 board of this state, or before any grand jury or any state or federal court.

40 3. The department of liquor licenses and control for its use in
41 determining whether a spirituous liquor licensee has paid all transaction
42 privilege taxes and affiliated excise taxes incurred as a result of the sale
43 of spirituous liquor at the licensed establishment and imposed on the
44 licensed establishments by this state and its political subdivisions.

1 4. Other state tax officials whose official duties require the
2 disclosure for proper tax administration purposes if the information is
3 sought in connection with an investigation or any other proceeding conducted
4 by the official. Any disclosure is limited to information of a taxpayer who
5 is being investigated or who is a party to a proceeding conducted by the
6 official.

7 5. The following agencies, officials and organizations, if they grant
8 substantially similar privileges to the department for the type of
9 information being sought, pursuant to statute and a written agreement between
10 the department and the foreign country, agency, state, Indian tribe or
11 organization:

12 (a) The United States internal revenue service, alcohol and tobacco
13 tax and trade bureau of the United States treasury, United States bureau of
14 alcohol, tobacco, firearms and explosives of the United States department of
15 justice, United States drug enforcement agency and federal bureau of
16 investigation.

17 (b) A state tax official of another state.

18 (c) An organization of states that operates an information exchange
19 for tax administration purposes.

20 (d) An agency, official or organization of a foreign country with
21 responsibilities that are comparable to those listed in subdivision (a), (b)
22 or (c) of this paragraph.

23 (e) An agency, official or organization of an Indian tribal government
24 with responsibilities comparable to the responsibilities of the agencies,
25 officials or organizations identified in subdivision (a), (b) or (c) of this
26 paragraph.

27 6. The auditor general, in connection with any audit of the department
28 subject to the restrictions in section 42-2002, subsection C.

29 7. Any person to the extent necessary for effective tax administration
30 in connection with:

31 (a) The processing, storage, transmission, destruction and
32 reproduction of the information.

33 (b) The programming, maintenance, repair, testing and procurement of
34 equipment for purposes of tax administration.

35 8. The office of administrative hearings relating to taxes
36 administered by the department pursuant to section 42-1101, but the
37 department shall not disclose any confidential information:

38 (a) Regarding income tax, withholding tax or estate tax.

39 (b) On any tax issue relating to information associated with the
40 reporting of income tax, withholding tax or estate tax.

41 9. The United States treasury inspector general for tax administration
42 for the purpose of reporting a violation of internal revenue code section
43 7213A (26 United States Code section 7213A), unauthorized inspection of
44 returns or return information.

1 10. The financial management service of the United States treasury
2 department for use in the treasury offset program.

3 11. The department of commerce for its use in both:

4 (a) Qualifying motion picture production companies for the tax
5 incentives provided for motion picture production under chapter 5 of this
6 title and sections 43-1075 and 43-1163.

7 (b) Fulfilling its annual reporting responsibility pursuant to section
8 41-1517, subsection ~~J~~ L.

9 C. Confidential information may be disclosed in any state or federal
10 judicial or administrative proceeding pertaining to tax administration if the
11 taxpayer is a party to the proceeding.

12 D. Identity information may be disclosed for purposes of notifying
13 persons entitled to tax refunds if the department is unable to locate the
14 persons after reasonable effort.

15 E. The department, upon the request of any person, shall provide the
16 names and addresses of bingo licensees as defined in section 5-401 or verify
17 whether or not a person has a privilege license and number or withholding
18 license and number.

19 F. A department employee, in connection with the official duties
20 relating to any audit, collection activity or civil or criminal
21 investigation, may disclose return information to the extent that disclosure
22 is necessary to obtain information which is not otherwise reasonably
23 available. These official duties include the correct determination of and
24 liability for tax, the amount to be collected or the enforcement of other
25 state tax revenue laws.

26 G. If an organization is exempt from this state's income tax as
27 provided in section 43-1201 for any taxable year, the name and address of the
28 organization and the application filed by the organization upon which the
29 department made its determination for exemption together with any papers
30 submitted in support of the application and any letter or document issued by
31 the department concerning the application are open to public inspection.

32 H. Confidential information relating to transaction privilege tax, use
33 tax, severance tax, jet fuel excise and use tax and rental occupancy tax may
34 be disclosed to any county, city or town tax official if the information
35 relates to a taxpayer who is or may be taxable by the county, city or town.
36 Any taxpayer information released by the department to the county, city or
37 town:

38 1. May only be used for internal purposes.

39 2. May not be disclosed to the public in any manner that does not
40 comply with confidentiality standards established by the department. The
41 county, city or town shall agree in writing with the department that any
42 release of confidential information that violates the confidentiality
43 standards adopted by the department will result in the immediate suspension
44 of any rights of the county, city or town to receive taxpayer information
45 under this subsection.

1 I. The department may disclose statistical information gathered from
2 confidential information if it does not disclose confidential information
3 attributable to any one taxpayer. In order to comply with the requirements
4 of section 42-5029, subsection A, paragraph 3, the department may disclose to
5 the state treasurer statistical information gathered from confidential
6 information, even if it discloses confidential information attributable to a
7 taxpayer.

8 J. The department may disclose the aggregate amounts of any tax
9 credit, tax deduction or tax exemption enacted after January 1, 1994.
10 Information subject to disclosure under this subsection shall not be
11 disclosed if a taxpayer demonstrates to the department that such information
12 would give an unfair advantage to competitors.

13 K. Except as provided in section 42-2002, subsection B, confidential
14 information, described in section 42-2001, paragraph 2, subdivision (a), item
15 (iii), may be disclosed to law enforcement agencies for law enforcement
16 purposes.

17 L. The department may provide transaction privilege tax license
18 information to property tax officials in a county for the purpose of
19 identification and verification of the tax status of commercial property.

20 M. The department may provide transaction privilege tax, luxury tax,
21 use tax, property tax and severance tax information to the ombudsman-citizens
22 aide pursuant to title 41, chapter 8, article 5.

23 N. Except as provided in section 42-2002, subsection C, a court may
24 order the department to disclose confidential information pertaining to a
25 party to an action. An order shall be made only upon a showing of good cause
26 and that the party seeking the information has made demand upon the taxpayer
27 for the information.

28 O. This section does not prohibit the disclosure by the department of
29 any information or documents submitted to the department by a bingo
30 licensee. Before disclosing the information the department shall obtain the
31 name and address of the person requesting the information.

32 P. If the department is required or permitted to disclose confidential
33 information, it may charge the person or agency requesting the information
34 for the reasonable cost of its services.

35 Q. Except as provided in section 42-2002, subsection C, the department
36 of revenue shall release confidential information as requested by the
37 department of economic security pursuant to section 42-1122 or
38 46-291. Information disclosed under this subsection is limited to the same
39 type of information that the United States internal revenue service is
40 authorized to disclose under section 6103(l)(6) of the internal revenue code.

41 R. Except as provided in section 42-2002, subsection C, the department
42 of revenue shall release confidential information as requested by the courts
43 and clerks of the court pursuant to section 42-1122.

44 S. To comply with the requirements of section 42-5031, the department
45 may disclose to the state treasurer, to the county stadium district board of

1 directors and to any city or town tax official that is part of the county
2 stadium district confidential information attributable to a taxpayer's
3 business activity conducted in the county stadium district.

4 T. The department shall release confidential information as requested
5 by the attorney general for purposes of determining compliance with and
6 enforcing section 44-7101, the master settlement agreement referred to
7 therein and subsequent agreements to which the state is a party that amend or
8 implement the master settlement agreement. Information disclosed under this
9 subsection is limited to luxury tax information relating to tobacco
10 manufacturers, distributors, wholesalers and retailers and information
11 collected by the department pursuant to section 44-7101(2)(j).

12 U. For proceedings before the department, the office of administrative
13 hearings, the board of tax appeals or any state or federal court involving
14 penalties that were assessed against a return preparer or electronic return
15 preparer pursuant to section 42-1103.02 or 42-1125.01, confidential
16 information may be disclosed only before the judge or administrative law
17 judge adjudicating the proceeding, the parties to the proceeding and the
18 parties' representatives in the proceeding prior to its introduction into
19 evidence in the proceeding. The confidential information may be introduced
20 as evidence in the proceeding only if the taxpayer's name, the names of any
21 dependents listed on the return, all social security numbers, the taxpayer's
22 address, the taxpayer's signature and any attachments containing any of the
23 foregoing information are redacted and if either:

24 1. The treatment of an item reflected on such return is or may be
25 related to the resolution of an issue in the proceeding.

26 2. Such return or return information relates or may relate to a
27 transactional relationship between a person who is a party to the proceeding
28 and the taxpayer which directly affects the resolution of an issue in the
29 proceeding.

30 V. The department may disclose to the attorney general confidential
31 information received under section 44-7111 and requested by the attorney
32 general for purposes of determining compliance with and enforcing section
33 44-7111. The department and attorney general shall share with each other the
34 information received under section 44-7111, and may share the information
35 with other federal, state or local agencies only for the purposes of
36 enforcement of section 44-7101, section 44-7111 or corresponding laws of
37 other states.

38 Sec. 3. Section 42-5066, Arizona Revised Statutes, is amended to read:

39 42-5066. Job printing classification

40 A. The job printing classification is comprised of the business of job
41 printing, engraving, embossing and copying.

42 B. The tax base for the job printing classification is the gross
43 proceeds of sales or gross income derived from the business, but the gross
44 proceeds of sales or gross income derived from the following shall be
45 deducted from the tax base:

1. Sales to a person in this state who has a transaction privilege tax license issued in this state, and who does either of the following:

(a) Resells the job printing, engraving, embossing or copying.

(b) Distributes such printing, engraving, embossing or copying without remuneration in connection with the publication of a newspaper or magazine.

2. Sales of job printing, engraving, embossing and copying for use outside this state if the materials are shipped or delivered out of this state regardless of where title to the materials passes or their free on board point.

3. Sales of personal property to:

(a) Qualifying hospitals as defined in section 42-5001.

(b) A qualifying health care organization as defined in section 42-5001 if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

4. SALES TO A MOTION PICTURE PRODUCTION COMPANY THAT WILL USE THE JOB PRINTING, ENGRAVING, EMBOSSEING OR COPYING DIRECTLY IN MOTION PICTURE PRODUCTION. TO QUALIFY FOR THIS DEDUCTION, AT THE TIME OF SALE, THE MOTION PICTURE PRODUCTION COMPANY MUST PRESENT THE JOB PRINTER ITS CERTIFICATE THAT IS ISSUED PURSUANT TO SECTION 42-5009, SUBSECTION H, AND THAT ESTABLISHES ITS QUALIFICATIONS FOR THE DEDUCTION.

Sec. 4. Section 43-1075, Arizona Revised Statutes, is amended to read:

43-1075. Credit for motion picture production costs:
definitions

A. Beginning from and after December 31, 2005 through December 31, 2010, a credit is allowed against the taxes imposed by this title for motion picture production costs paid by a motion picture production company in this state that are directly attributable to the production of ~~a motion picture~~ ONE OR MORE MOTION PICTURES in this state. The amount of the credit is equal to a percentage of the amount of motion picture production costs paid in this state as follows:

| <u>Production costs</u> | <u>Percentage credit</u> |
|-------------------------|--------------------------|
|-------------------------|--------------------------|

| | |
|-------------------------|-----|
| \$250,000 - \$1,000,000 | 10% |
|-------------------------|-----|

| | |
|---------------------------|-----|
| \$1,000,001 - \$3,000,000 | 15% |
|---------------------------|-----|

| | |
|-----------------------|-----|
| More than \$3,000,000 | 20% |
|-----------------------|-----|

B. The department shall not allow in any year tax credits that exceed the aggregate amount prescribed in section 41-1517.

C. The department shall not allow a credit under this section to a taxpayer who has a delinquent tax balance owing to the department under this title or title 42.

D. To qualify for a credit under this section, the motion picture production company must:

1. Employ residents of this state in production as follows:

(a) In 2006, twenty-five per cent of full-time employees working in this state must be residents of this state.

1 (b) In 2007, thirty-five per cent of full-time employees working in
2 this state must be residents of this state.

3 (c) In 2008 and every subsequent taxable year thereafter, fifty per
4 cent of full-time employees working in this state must be residents of this
5 state.

6 2. Include in the production credits for each commercial motion
7 picture, other than a commercial advertisement, an acknowledgement that the
8 production was filmed in Arizona.

9 3. Receive preapproval and postapproval from the department of
10 commerce pursuant to section 41-1517.

11 E. Co-owners of a motion picture production company, including
12 partners in a partnership, members of a limited liability company and
13 shareholders of an S corporation as defined in section 1361 of the internal
14 revenue code, may allocate the credit allowed under this section among the
15 co-owners on any basis without regard to their proportional ownership
16 interest. The total of the credits allowed all such owners of the motion
17 picture production company may not exceed the amount that would have been
18 allowed for a sole owner of the company.

19 F. If the allowable tax credit for a taxpayer exceeds the taxes
20 otherwise due under this title on the claimant's income, or if there are no
21 taxes due under this title, the taxpayer may carry the amount of the claim
22 not used to offset the taxes under this title forward for not more than five
23 consecutive taxable years' income tax liability.

24 G. All or part of any unclaimed amount of credit under this section
25 may be sold or otherwise transferred under the following conditions:

26 1. A single sale or transfer may involve one or more transferees, and
27 a transferee may in turn resell or transfer the credit subject to the same
28 conditions of this subsection.

29 2. Both the transferor and transferee must submit a written notice of
30 the transfer to the department within thirty days after the sale or
31 transfer. The transferee's notice shall include a processing fee equal to
32 one per cent of the transferee's tax credit balance or two hundred dollars,
33 whichever is less. The notice shall include:

34 (a) The name of the motion picture production company.

35 (b) The date of the transfer.

36 (c) The amount of the transfer.

37 (d) The transferor's tax credit balance before the transfer and the
38 remaining balance after the transfer.

39 (e) All tax identification numbers for both transferor and transferee.

40 (f) Any other information required by rule.

41 3. A sale or transfer of the credit does not extend the time in which
42 the credit can be used. The carryforward period of time under subsection F
43 of this section for a credit that is sold or transferred begins on the date
44 the credit was originally earned.

4. If a transferor was not qualified or was disqualified from using the credit at the time of the transfer, the department shall either disallow the credit claimed by a transferee or recapture the credit from the transferee through any authorized collection method. The transferee's recourse is against the transferor.

5. In the case of any failure to comply with this subsection, the department shall disallow the tax credit until the taxpayer is in full compliance.

H. The department shall maintain annual data on the total amount of monies credited pursuant to this section, and shall provide those data to the department of commerce on request.

I. The department, with the cooperation of the department of commerce, shall adopt rules and publish and prescribe forms and procedures as necessary to effectuate the purposes of this section.

J. The credit allowed by this section is in lieu of any allowance for state tax purposes of a deduction of those expenses allowed by the internal revenue code.

K. For the purposes of this section, "motion picture" and "motion picture production company" have the same meaning MEANINGS prescribed in section 41-1517.

Sec. 5. Section 43-1163, Arizona Revised Statutes, is amended to read:

43-1163. Credit for motion picture production costs;
definitions

A. Beginning from and after December 31, 2005 through December 31, 2010, a credit is allowed against the taxes imposed by this title for motion picture production costs paid by a motion picture production company in this state that are directly attributable to the production of ~~a motion picture~~ ONE OR MORE MOTION PICTURES in this state. The amount of the credit is equal to a percentage of the amount of motion picture production costs paid in this state as follows:

| <u>Production costs</u> | <u>Percentage credit</u> |
|---------------------------|--------------------------|
| \$250,000 - \$1,000,000 | 10% |
| \$1,000,001 - \$3,000,000 | 15% |
| More than \$3,000,000 | 20% |

B. The department shall not allow in any year tax credits that exceed the aggregate amount prescribed in section 41-1517.

C. The department shall not allow a credit under this section to a taxpayer who has a delinquent tax balance owing to the department under this title or title 42.

D. To qualify for a credit under this section, the motion picture production company must:

1. Employ residents of this state in production as follows:

(a) In 2006, twenty-five per cent of full-time employees working in this state must be residents of this state.

1 (b) In 2007, thirty-five per cent of full-time employees working in
2 this state must be residents of this state.

3 (c) In 2008 and every subsequent taxable year thereafter, fifty per
4 cent of full-time employees working in this state must be residents of this
5 state.

6 2. Include in the production credits for each commercial motion
7 picture, other than a commercial advertisement, an acknowledgement that the
8 production was filmed in Arizona.

9 3. Receive preapproval and postapproval from the department of
10 commerce pursuant to section 41-1517.

11 E. Co-owners of a motion picture production company, including
12 corporate partners in a partnership and members of a limited liability
13 company, may allocate the credit allowed under this section among the
14 co-owners on any basis without regard to their proportional ownership
15 interest. The total of the credits allowed all such owners of the motion
16 picture production company may not exceed the amount that would have been
17 allowed for a sole owner of the company.

18 F. If the allowable tax credit for a taxpayer exceeds the taxes
19 otherwise due under this title on the claimant's income, or if there are no
20 taxes due under this title, the taxpayer may carry the amount of the claim
21 not used to offset the taxes under this title forward for not more than five
22 consecutive taxable years' income tax liability.

23 G. All or part of any unclaimed amount of credit under this section
24 may be sold or otherwise transferred ~~to a person who has tax liability under~~
25 ~~this title~~ under the following conditions:

26 1. A single sale or transfer may involve one or more transferees, and
27 a transferee may in turn resell or transfer the credit subject to the same
28 conditions of this subsection.

29 2. Both the transferor and transferee must submit a written notice of
30 the transfer to the department within thirty days after the sale or
31 transfer. The transferee's notice shall include a processing fee equal to
32 one per cent of the transferee's tax credit balance or two hundred dollars,
33 whichever is less. The notice shall include:

34 (a) The name of the motion picture production company.

35 (b) The date of the transfer.

36 (c) The amount of the transfer.

37 (d) The transferor's tax credit balance before the transfer and the
38 remaining balance after the transfer.

39 (e) All tax identification numbers for both transferor and transferee.

40 (f) Any other information required by rule.

41 3. A sale or transfer of the credit does not extend the time in which
42 the credit can be used. The carryforward period of time under subsection F
43 of this section for a credit that is sold or transferred begins on the date
44 the credit was originally earned.

1 ~~4. A transferee shall apply the credit in the same manner as the~~
2 ~~person originally awarded the credit.~~

3 ~~5.~~ 4. If a transferor was not qualified or was disqualified from
4 using the credit at the time of the transfer, the department shall either
5 disallow the credit claimed by a transferee or recapture the credit from the
6 transferee through any authorized collection method. The transferee's
7 recourse is against the transferor.

8 ~~6.~~ 5. In the case of any failure to comply with this subsection, the
9 department shall disallow the tax credit until the taxpayer is in full
10 compliance.

11 H. The department shall maintain annual data on the total amount of
12 monies credited pursuant to this section, and shall provide those data to the
13 department of commerce on request.

14 I. The department, with the cooperation of the department of commerce,
15 shall adopt rules and publish and prescribe forms and procedures as necessary
16 to effectuate the purposes of this section.

17 J. The credit allowed by this section is in lieu of any allowance for
18 state tax purposes of a deduction of those expenses allowed by the internal
19 revenue code.

20 K. For the purposes of this section, "motion picture" and "motion
21 picture production company" have the same meaning MEANINGS prescribed in
22 section 41-1517.

23 Sec. 6. Retroactivity

24 This act applies retroactively to taxable periods beginning from and
25 after December 31, 2005.

APPROVED BY THE GOVERNOR APRIL 25, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 25, 2006.